

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 645 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH and  
MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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LAXMANJI MARUTI MANDOLKAR

Versus

STATE OF GUJARAT

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Appearance:

MR SS PANESAR for Petitioner  
Ms. K.N.Valikarimvala,A.P.P. for Respondentd No.1 &  
2.  
MR AM PAREKH for Respondent No. 3

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CORAM : MR.JUSTICE M.S.SHAH and  
MR.JUSTICE M.H.KADRI

Date of decision: 02/06/97

ORAL JUDGEMENT

Rule. Ms. K.N.Valikarimvala, learned A.P.P.  
waives service of rule on behalf of respondents no.1 & 2.  
Mr. A.M.Parekh, learned advocate waives service of rule

on behalf of respondent no.3.

By the consent of learned Advocates, the petition is heard today.

Laxmanji Maruti Mandolkar has filed this petition under Article 226 of the Constitution of India for issuance of writ of habeas corpus, as his daughter Smita is illegally detained by respondent no.3 - Franklin Rameshchandra Christian.

This petition was placed for admission hearing on 20.5.1997 and the Court (Coram : S.D.Pandit,J.) passed the following order :-

"Issue notice. Mr. S.R.Divetia waives service for respondent no.1. Issue notice to respondents no.2 and 3 to produce girl "Smita" before this Court on 28.5.1997. Packet containing the notice of respondent no.3 be handed over to the petitioner to hand over the same to the respondent no.2 to serve respondent no.3. Direct service to respondent no.2."

Pursuant to the order of the Court, daughter of the petitioner namely Smita is produced by respondent no.3. Her statement was recorded in presence of learned Advocate Mr.W.A.Uraizee, who appears for the petitioner, learned Advocate Mr. A.M.Parekh, who appears for the respondent no.3 and learned A.P.P. Mr. K.M.Mehta on 28.5.1997.

As the petition for habeas corpus is to be heard by division bench pursuant to the direction of the Hon'ble Acting Chief Justice, this matter was placed before division bench.

From the statement of Smita it is borne out that she is major and has married to respondent no.3 on her free will without any pressure. Therefore, Smita is legally wedded wife of respondent no.3. She being major, there is no question of her illegal detention by respondent no.3. She in unequivocal terms has stated that she wants to go with respondent no.3 and does not want to go to her parents' house. Smita is grown-up girl of 21 years of age and is well educated and has appeared in final year B.Sc. Examination. She has also stated that she is not wrongfully detained by respondent no.3.

In view of the foregoing discussion, there is no illegal detention of the petitioner's daughter Smita by

the respondent no.3. Hence, we do not find any merits in the petition and it deserves to be dismissed. The petition stands dismissed accordingly. Rule discharged.

June 2,1997